

Assembly Bill No. 509

Passed the Assembly September 8, 2011

Chief Clerk of the Assembly

Passed the Senate September 6, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 19851, 19852, and 19853 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 509, Skinner. Federal earned income tax credit: notification: state departments and agencies.

The federal income tax law authorizes a refundable earned income tax credit for certain low-income individuals who have earned income and who meet certain other requirements. Existing California law requires an employer, as defined, to notify all employees that they may be eligible for the federal earned income tax credit (EITC), as specified.

This bill would require state departments and agencies that serve those who may qualify for the EITC, as defined, to notify their program recipients that they may be eligible for the EITC, at least once a year during the months of January through April, or alternatively, to provide this annual notification during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication, as specified. This bill would require state departments and agencies that do not directly communicate with persons who may qualify for the EITC to communicate indirectly through agencies or districts serving those persons.

The people of the State of California do enact as follows:

SECTION 1. Section 19851 of the Revenue and Taxation Code is amended to read:

19851. The Legislature finds and declares as follows:

(a) Congress created the federal earned income tax credit (EITC) in 1975 to offset the adverse effects of the Medicare and social security payroll taxes on working poor families and to encourage low-income workers to seek employment rather than welfare.

(b) Due to a relatively low percentage of federal earned income tax credit eligible persons who participate in the federal Earned

Income Tax Credit program, hundreds of millions of federal dollars go unclaimed by the working poor in California.

(c) In order to alleviate the tax burden on working poor persons and families, to enhance the wages and income of working poor persons and families, to ensure that California receives its share of the federal money available in the federal Earned Income Tax Credit program, and to inject additional federal money into the California economy, the state shall facilitate the furnishing of information to working poor persons and families regarding the availability of the federal earned income tax credit so that they may claim that credit on their federal income tax returns.

(d) It is the intent of this act to offer the most cost-effective assistance to eligible taxpayers through the following:

(1) Notices provided by their employers.

(2) Notices provided by state departments and agencies that serve those who may qualify for the EITC.

SEC. 2. Section 19852 of the Revenue and Taxation Code is amended to read:

19852. For purposes of this part, the following terms have the following meanings:

(a) “Employer” means any California employer who is subject to, and is required to provide, unemployment insurance to his or her employees, under the Unemployment Insurance Code.

(b) “Employee” means any person who is covered by unemployment insurance by his or her employer, pursuant to the Unemployment Insurance Code.

(c) “EITC” means the federal earned income tax credit, as defined in Section 32 of the Internal Revenue Code.

(d) “State departments and agencies that serve those who may qualify for the EITC” means the following programs in the specified departments and agencies:

(1) The State Department of Education: free or reduced-price meal program and National School Lunch Program.

(2) Employment Development Department: California Unemployment Insurance.

(3) State Department of Health Care Services: the Medi-Cal program.

(4) Managed Risk Medical Insurance Board (MRMIB): the Healthy Families Program.

SEC. 3. Section 19853 of the Revenue and Taxation Code is amended to read:

19853. (a) An employer shall notify all employees that they may be eligible for the EITC within one week before or after, or at the same time, that the employer provides an annual wage summary, including, but not limited to, a Form W-2 or a Form 1099, to any employee.

(b) The state departments and agencies that serve those who may qualify for the EITC, as defined in subdivision (d) of Section 19852, shall notify their program recipients that they may be eligible for the EITC, at least once a year during the months of January through April, or alternatively, shall provide this annual notification during a regularly scheduled contact with a recipient by telephone, mail, or electronic communication, or by an in-person communication. State departments or agencies that do not directly communicate with persons or households with persons who may qualify for the EITC may communicate indirectly through agencies, districts, or regulated entities that serve eligible persons or households with eligible persons. Departments, agencies, and programs are encouraged to develop the most effective method to provide notice to recipients of EITC eligibility, as long as the notice contains substantially the same language as the notice described in Section 19854.

(c) The employer shall provide the notification required by subdivision (a) by handing directly to the employee or mailing to the employee's last known address either of the following:

(1) Instructions on how to obtain any notices available from the Internal Revenue Service for this purpose, including, but not limited to, the IRS Notice 797 and Form W-5, or any successor notice or form.

(2) Any notice created by the employer, as long as it contains substantially the same language as the notice described in paragraph (1) or in Section 19854.

(d) The employer shall not satisfy the notification required by subdivision (a) by posting a notice on an employee bulletin board or sending it through office mail. However, these methods of notification are encouraged to help inform all employees of the EITC.

(e) Every employer shall process, in accordance with federal law, Form W-5 for advance payments of the EITC, upon the request of the employee.

Approved _____, 2011

Governor